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**BEFORE THE  
RESPIRATORY CARE BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Statement of Issues Against:

Case No. S-361

KENNETH JAMAL WILLIAMS  
1908 W. Poplar Street  
Compton, California 90220

**STATEMENT OF ISSUES**

Respondent.

Complainant alleges:

PARTIES

1. Stephanie Nunez (Complainant) brings this Statement of Issues solely in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs.

2. On or about June 6, 2005, the Respiratory Care Board of California (Board) received an application for a Respiratory Care Practitioner License from Kenneth Jamal Williams (Respondent). On or about June 3, 2005, respondent certified under penalty of perjury to the truthfulness of all statements, answers, and representations in the application. The Board denied the application on December 16, 2005.

JURISDICTION

3. This Statement of Issues is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless

1 otherwise indicated.

2           4.       Section 3710 of the Code states: "The Respiratory Care Board of  
3 California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter 8.3,  
4 the Respiratory Care Practice Act]."

5           5.       Section 3718 of the Code states: "The board shall issue, deny, suspend, and  
6 revoke licenses to practice respiratory care as provided in this chapter."

7           6.       Section 3732, subdivision (b) of the Code states:  
8 "The board may deny an application, or may order the issuance of a license  
9 with terms and conditions, for any of the causes specified in this chapter for  
10 suspension or revocation of a license, including, but not limited to, those causes  
11 specified in Sections 3750, 3750.5, 3752.5, 3752.6, 3755, 3757, 3760, and 3761."

12          7.       Section 3750 of the Code states:  
13 "The board may order the denial, suspension or revocation of, or the  
14 imposition of probationary conditions upon, a license issued under this chapter, for  
15 any of the following causes:

16           " . . .

17           "(d) Conviction of a crime that substantially relates to the qualifications,  
18 functions, or duties of a respiratory care practitioner. The record of conviction or a  
19 certified copy thereof shall be conclusive evidence of the conviction.

20           " . . .

21           "(j) The commission of any fraudulent, dishonest, or corrupt act which is  
22 substantially related to the qualifications, functions, or duties of a respiratory care  
23 practitioner. . . ."

24          8.       Section 3752 of the Code states:

25           "A plea or verdict of guilty or a conviction following a plea of nolo  
26 contendere made to a charge of any offense which substantially relates to the  
27 qualifications, functions, or duties of a respiratory care practitioner is deemed to be a  
28 conviction within the meaning of this article. The board shall order the license

1 suspended or revoked, or may decline to issue a license, when the time for appeal  
2 has elapsed, or the judgment of conviction has been affirmed on appeal or when an  
3 order granting probation is made suspending the imposition of sentence, irrespective  
4 of a subsequent order under Section 1203.4 of the Penal Code allowing the person  
5 to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside  
6 the verdict of guilty, or dismissing the accusation, information, or indictment.”

7 9. California Code of Regulations, Title 16, section 1399.370, states:

8 “For the purposes of denial, suspension, or revocation of a license, a crime or  
9 act shall be considered to be substantially related to the qualifications, functions or  
10 duties of a respiratory care practitioner, if it evidences present or potential unfitness  
11 of a licensee to perform the functions authorized by his or her license or in a manner  
12 inconsistent with the public health, safety, or welfare. Such crimes or acts shall  
13 include but not be limited to those involving the following:

14 “ . . .

15 “(b) Conviction of a crime involving fiscal dishonesty, theft, or larceny. . . .”

#### 16 COST RECOVERY

17 10. Section 3753.5, subdivision (a) of the Code states:

18 "In any order issued in resolution of a disciplinary proceeding before the  
19 board, the board or the administrative law judge may direct any practitioner or  
20 applicant found to have committed a violation or violations of law to pay to the  
21 board a sum not to exceed the costs of the investigation and prosecution of the case."

22 11. Section 3753.7 of the Code states:

23 "For purposes of the Respiratory Care Practice Act, costs of prosecution  
24 shall include attorney general or other prosecuting attorney fees, expert witness fees,  
25 and other administrative, filing, and service fees."

26 12. Section 3753.1, subdivision (a) of the Code states:

27 "An administrative disciplinary decision imposing terms of probation may  
28 include, among other things, a requirement that the licensee-probationer pay the

monetary costs associated with monitoring the probation."

FIRST CAUSE FOR DENIAL OF APPLICATION

(Conviction of a Crime)

13. Respondent's application is subject to denial under Code sections 3750, subdivision (d), and 3752, and California Code of Regulations, Title 16, section 1399.370, subdivision (b), in conjunction with section 3732, subdivision (b), in that respondent was convicted of a crime substantially related to the qualifications, functions and duties of a respiratory care practitioner. The circumstances are as follows:

A. From on or about March 30, 2001 through April 11, 2001, respondent cashed about thirteen checks in amounts from \$750.00 to \$1,000.00, which were written by a friend on an closed account at Los Angeles Schools Federal Credit Union. Respondent cashed these checks which totaled about \$11,800.00 knowing that the checks were drawn on a closed account. The credit union sent respondent notices advising him that the checks were written on a closed account, and that there were insufficient funds in his own account to cover the checks. The credit union asked respondent to remit the amount of the checks immediately, but received only about \$50.00 from him.

B. On or about July 20, 2001, respondent was interviewed at the Los Angeles County Sheriff's Department. He admitted that he needed money and had asked a friend who was on parole to write him a check. He then went to the credit union and cashed the check. He went back to the credit union twelve more times, sometimes more than once in the same day, and cashed twelve more checks written by his friend knowing that they were "bad checks."

C. On August 13, 2001, a complaint was filed against respondent in a criminal proceeding entitled *People v. Kenneth Jamal Williams*, in Superior Court, Los Angeles County, Case No. TA061342. Respondent was charged with violating Penal Code 487(a), grand theft, a felony (count 1), and Penal Code section 476a(a), delivering a check for payment with knowledge of insufficient funds, a felony

1 (count 2).

2 D. On August 29, 2001, respondent was convicted upon his plea of  
3 nolo contendere to count 2, delivering a check for payment with knowledge of  
4 insufficient funds. On October 10, 2001, respondent was placed on probation for  
5 three years with a number of terms and conditions. The court ordered him to make  
6 restitution to the victim in the amount of \$3,800.00, not to possess blank checks,  
7 write any checks or have a bank account, and participate in theft counseling. Count  
8 1 of the complaint was dismissed.

9 E. Respondent's conviction of delivering a check for payment with  
10 knowledge of insufficient funds, as more fully set forth above, constitutes a  
11 conviction of a crime involving fiscal dishonesty, theft, or larceny, and therefore is  
12 substantially related to the qualifications, functions or duties of a respiratory care  
13 practitioner pursuant to California Code of Regulations, Title 16, section 1399.370,  
14 subdivision (b).

15 SECOND CAUSE FOR DENIAL OF APPLICATION

16 (Commission of a Fraudulent, Dishonest, or Corrupt Act)

17 14. Respondent's application is subject to denial under sections 3750,  
18 subdivision (j), in conjunction with section 3732, subdivision (b), in that he committed a  
19 fraudulent, dishonest or corrupt act that is substantially related to the qualifications,  
20 functions, or duties of a respiratory care practitioner. The facts and circumstances set forth  
21 in Paragraph 13 above are incorporated herein by reference.

22 PRAYER

23 WHEREFORE, Complainant requests that a hearing be held on the matters  
24 herein alleged, and that following the hearing, the Respiratory Care Board issue a decision:

25 1. Denying the application of Kenneth Jamal Williams for a Respiratory  
26 Care Practitioner License;

27 2. Directing Kenneth Jamal Williams to pay the Respiratory Care Board  
28 the costs of the investigation and enforcement of this case, and if placed on probation, the

1 costs of probation monitoring;

2                   3.       Taking such other and further action as deemed necessary and  
3 proper.

4 DATED: May 15, 2006

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Original signed by Liane Zimmerman for: \_\_\_\_\_  
STEPHANIE NUNEZ  
Executive Officer  
Respiratory Care Board of California  
Department of Consumer Affairs  
State of California  
Complainant